

ROBERT E. CAMORS JR., CA BAR NO. 121204
BOBCAMORS@FOLEY.COM
FOLEY & LARDNER LLP
ATTORNEYS AT LAW
975 PAGE MILL ROAD
PALO ALTO, CA 94304-1013
TELEPHONE: 650-856-3700
FACSIMILE: 650-856-3710

KIMBERLY K. DODD, CA BAR NO. 235109
KDODD@FOLEY.COM
FOLEY & LARDNER LLP
ATTORNEYS AT LAW
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306
TELEPHONE: 414.271.2400
FACSIMILE: 414.297.4900

ALLEN A. ARNTSEN (ADMITTED *PRO HAC VICE*)
AARNTSEN@FOLEY.COM
JUSTIN E. GRAY (ADMITTED *PRO HAC VICE*)
JEGRAY@FOLEY.COM
FOLEY & LARDNER LLP
ATTORNEYS AT LAW
150 EAST GILMAN STREET
MADISON, WI 53701-01497
TELEPHONE: 608.257.5035
FACSIMILE: 608.258.4258

ATTORNEYS FOR DEFENDANT SPECTRUM BRANDS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SAN FRANCISCO TECHNOLOGY INC.,

Plaintiff,

v.

ADOBE SYSTEMS INCORPORATED, THE
BRITA PRODUCTS COMPANY, DELTA
FAUCET COMPANY, EVANS
MANUFACTURING INC., THE EVERCARE
COMPANY, GRAPHIC PACKAGING
INTERNATIONAL INC., MAGNUM
RESEARCH INC., PAVESTONE COMPANY
LP, THE PROCTOR & GAMBLE
COMPANY, S.C. JOHNSON & SON INC.,
SPECTRUM BRANDS INC., SUPER SWIM
CORP., UNILOCK INC., WEST COAST
CHAIN MFG. CO.,

Defendants.

Case No: 5:09-cv-06083-RS

Judge: Hon. Richard Seeborg

Date: April 8, 2010

Time: 1:30 p.m.

Courtroom: 3, 17th Floor (San Francisco)

**DEFENDANT SPECTRUM BRANDS,
INC.'S NOTICE OF MOTION AND
JOINDER IN MOTION TO STAY FILED
BY CO-DEFENDANT THE PROCTOR &
GAMBLE COMPANY**

Complaint Filed: December 30, 2009

DEFENDANT SPECTRUM BRANDS, INC.'S NOTICE OF MOTION AND NOTICE OF JOINDER IN MOTION
TO STAY FILED BY CO-DEFENDANT THE PROCTOR & GAMBLE COMPANY
CASE NO. 5:09-CV-06083 RS (HRL)

NOTICE OF MOTION

PLEASE TAKE NOTICE, that on April 8, 2010 at 1:30 p.m., or as soon thereafter as this matter may be heard, before the Honorable Judge Richard Seeborg, at the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, California 94102, Defendant Spectrum Brands, Inc. (“Spectrum”), by and through its counsel of record, will move the Court to stay all proceedings in this case until the Federal Circuit issues a decision on the merits in *Stauffer v. Brooks Bros.*, Appeal Nos. 2009-1428, 2009-1430, 2009-1453, which present the exact issue that has been put before this Court in two motions to dismiss for lack of subject matter jurisdiction. To that end, Spectrum hereby joins in Defendant The Proctor & Gamble Company’s March 1, 2010 Notice of Motion and Motion to Stay and incorporates the contents of that notice of motion and motion to stay herein by reference. This Motion is based on the Memorandum of Points and Authorities herein, the pleadings and papers on file in this action, such matters as the Court may take judicial notice, and argument and evidence to be presented at the hearing on this Motion.

CONCISE STATEMENT OF RELIEF SOUGHT

Spectrum seeks a stay of all proceedings in this case until the Federal Circuit issues a ruling in *Stauffer*.

MEMORANDUM OF POINTS AND AUTHORITIES

Spectrum hereby joins in Defendant The Proctor & Gamble Company’s March 1, 2010 Notice of Motion and Motion to Stay and requests the Court stay this case until the Federal Circuit issues a decision on the merits in *Stauffer v. Brooks Bros.* for the reasons set forth therein. Spectrum incorporates the contents of The Proctor & Gamble’s Company’s Notice of Motion and Motion to Stay herein by reference.¹

¹ Further, Spectrum brings to the Court’s attention that there is another appeal currently pending before the Federal Circuit, *Pequignot v. Solo Cup Co.*, Appeal No. 2009-1547, which concerns a false marking claim under 35 U.S.C. § 292 The decision in *Pequignot* is likely to be issued this year and may also inform the court as to issues raised in this action.

Dated: March 1, 2010

Respectfully submitted,

FOLEY & LARDNER LLP

BY: /s/ Justin E. Gray

Allen A. Arntsen

Robert E. Camors, Jr.

Kimberly K. Dodd

Justin E. Gray

Attorneys for Defendant

Spectrum Brands, Inc.